

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

PATENT APPLICATION
ATTORNEY DOCKET NO. 10019419-1

RECEIVED
CENTRAL FAX CENTER

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 17 2005

Inventor(s): Eric Gentry

Confirmation No.: 2237

Application No.: 09/943,879

Examiner: Anil Khatri

Filing Date: Aug. 31, 2001

Group Art Unit: 2193

Title: System And Method For Installing Window Staller Service Without Rebooting

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Sir:

Transmitted herewith in *triplicate* is the Reply Brief with respect to the Examiner's Answer mailed on Aug. 15, 2005. This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new grounds of rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.

Date of Deposit: _____

OR

I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number on (571) 273-8300 Oct. 17, 2005

Number of pages: 17

Typed Name: Tanra F. Paulin

Respectfully submitted,

Eric Gentry

By

Steven R. Ormiston

Attorney/Agent for Applicant(s)

Reg. No. 35,974

Date: Oct. 17, 2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

PATENT APPLICATION
ATTORNEY DOCKET NO. 10019419-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Eric Gentry Confirmation No.: 2237
Application No.: 09/943,879 Examiner: Anil Khatri
Filing Date: Aug. 31, 2001 Group Art Unit: 2193
Title: System And Method For Installing Window Staller Service Without Rebooting

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Sir:

Transmitted herewith in *triplicate* is the Reply Brief with respect to the Examiner's Answer mailed on Aug. 15, 2005. This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new grounds of rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

() I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.
Date of Deposit: _____ OR

(X) I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number on (571) 273-8300 Oct. 17, 2005

Number of pages: 17

Typed Name: Tanya F. Paulin

Signature: [Signature]

Respectfully submitted,

Eric Gentry

By

Steven R. Ormiston

Attorney/Agent for Applicant(s)
Reg. No. 35,974

Date: Oct. 17, 2005

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Date of Deposit: Oct. 17, 2005
 Typed or printed name: Tanya F. Paulin
 Signature: [Signature]

RECEIVED
 CENTRAL FAX CENTER

OCT 17 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Eric Gentry	)	Attorney
Serial No: 09/943,879	)	Docket Number: 10019419-1
Filed: August 31, 2001	)	Group Art Unit: 2124
Title: System And Method For Installing Window Installer Service Without Rebooting	)	Examiner: A. Khatri

APPELLANT'S/APPLICANT'S REPLY TO THE EXAMINER'S ANSWER

Applicant Elects To Maintain The Appeal

In response to the Applicant's Opening Brief On Appeal, the Examiner issued a non-final Office Action purporting to withdraw the finality of the prior Action and advancing new grounds for rejection.

Rule 41.39(a) (37 U.S.C. § 41.39(a)) provides that the Examiner may furnish a written answer to the appeal brief and that the Examiner's answer may include new grounds of rejection. If the Examiner's answer contains a rejection designated as a new ground of rejection, then the Applicant may request that prosecution be reopened before the primary examiner by filing a reply under Rule 1.111 or that the appeal be maintained by filing a reply brief under Rule 41.41. 37 U.S.C. § 41.39(b).

The Applicant has, therefore, construed the Examiner's action as an answer designating new grounds for rejection under Rule 41.39(a)(2). Accordingly, pursuant to Rule 41.39(b)(1), Applicants are requesting that the appeal be maintained by filing this reply brief under Rule 41.41.

09/943,879
 Docket No. 10019419-1
 Appellant's Reply Brief
 Page 1

Gaither Does Not Teach All Claim Limitations

Claims 1-25 now stand rejected under Section 102 as being anticipated by Gaither (6381615). As noted in Applicant's Opening Brief, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP 2131. And, as this Board has recognized, "it is now well settled that the burden of establishing a *prima facie* case of anticipation resides with the Patent and Trademark Office." *In re Skinner*, 2 USPQ2d 1788, 1788-89 (BPAI 1986; see also *Ex parte Natale*, 11 USPQ 2d 1222, 1226 (BPAI 1989)). The Office has failed to carry this burden as to any of the claims.

Claim 6 recites a method that includes loading an install system to a temporary directory, setting a path for the install system as the temporary directory, and executing the install system from the temporary directory. Claims 1, 11 and 16 are means plus function, computer medium and system claims that recite similar limitations. Claim 21 recites a method that includes loading an install system to a temporary directory without registering the install system with the operating system and executing the install system from the temporary directory without restarting the operating system.

The entirety of the Examiner's analysis in support of the rejection of Claims 1, 6, 11, 16 and 21 is set forth verbatim below.

"Gaither et al teaches,

- means for loading the install system to a temporary directory (column 2, lines 10-17, column 7, lines 45-48);

- means for setting a path for the install system as the temporary directory (column 3, lines 29-47); and

- means for executing the install system from the temporary directory (columns 7-8, lines 66-67 and 1-20)." Office Action, page 3.

The Examiner's conclusions based on Gauthier are not correct. Gauthier is directed to virtualizing I/O operations by performing string substitutions upon file paths or other resource identifiers to convert the virtual destination of an I/O operation to a physical destination. Gauthier, Abstract lines 1-5. Gauthier notes that all programs in a Windows operating system typically are allowed access to a common temporary

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 2

directory. Gauthier, column 2, lines 10-17. There is no teaching in Gauthier, however, about loading an install system to the temporary directory, setting a path for the install system as the temporary directory and/or executing the install system from the temporary directory.

Applicant notes, respectfully but with much frustration, that more and more Examiners seem to have gotten in the habit lately of supporting a rejection by the simple expedient of quoting the claim limitations and then citing to passages in a reference. No effort is made to explain how the language in the cited passages might reasonably be deemed to teach the limitations. And so it is in this case. The passages in Gauthier relied on by the Examiner are quoted verbatim below – there is nothing apparent in these passages that teaches or suggests loading an install system to a temporary directory, setting a path for the install system as the temporary directory, and/or executing the install system from the temporary directory.

"There are a number of mechanisms known in the art that can virtualize file system access operations to a limited extent. For example, in the Windows NT.RTM. or Windows.RTM. 98 operating system, a global variable called "Temp" is typically defined that allows all programs to access a common temporary directory. By changing the file path contained in the variable, the location of the temporary directory used by all programs can also be changed" Gauthier, column 2, lines 10-17.

"In a first embodiment of the invention, the file system is partially virtualized and a user can see both the virtual file paths and the physical file paths. In this embodiment, the virtual file path is translated to a physical file path if a translation exists, and the file access operation is processed using the physical file path. If no translation exists, the file path provided by the application or utility is used to process the file access request.

In second and third embodiments of the present invention, the file system is completely virtualized from the point of view of the applications and system utilities. In the second embodiment, a user may start with a physical file system, and virtualize the file system by installing the virtual file system translation driver. When the driver is initially installed, all virtual file paths will be considered to translate to identically named physical file paths by default. In the third embodiment, virtual translations are automatically generated for all file paths when files and directories are

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 3

created, and virtual file paths may bear limited, or no resemblance to physical file paths." Gauthier column 3, lines 29-47.

"One of the advantages provided by the present invention is that the process of re-mapping directories can be done on-the-fly without having to reboot the computer. For example, the directory tree of a program can be moved to another location, with the file "vftranslate.ini" updated by the computer user to reflect the new location, and the program can be immediately executed." Gauthier, column 7, lines 45-50.

"For example, consider that a computer user is having trouble with various versions of a DLL file. The acronym "DLL" stands for dynamic link library, and DLL files allow executable routines, generally serving a specific function or set of functions, to be stored separately as files with DLL extensions. One common problem with the Windows.RTM. family of operating systems is that different versions of a DLL may be stored in various directories, and the installation of one program may overwrite a version of a DLL file required by another program, thereby "breaking" the other program. In this example, assume that the user suspects that the file "msvcrt40.dll" (which contains the Microsoft.RTM. Visual C++ v4.0 runtime library) is the problem. Rather than check the versions of all copies of the file "msvcrt40.dll" present on the hard drive (which may entail, for example, renaming each occurrence "msvcrt40.dll" to "msvcrt40.old", and coping the latest version of "msvcrt40.dll" to each directory where the file is located), the user can simply copy the latest version of the file "msvcrt40.dll" to the directory "c:\backslash.dll_library" and add the following entry to the file "vftranslate.ini":." Gauthier, column 7, line 66 through column 8, line 20.

So far as Applicant can tell, there is nothing in these passages relevant to the limitations in any of the independent claims, Claims 1, 6, 11, 16 and 21, except, perhaps, for the generalized statement about program access to a common temporary directory. That statement, of course, is not sufficient by itself to support the rejections. The Examiner has failed to carry his burden of establishing a *prima facie* case of anticipation as to any of the claims and, therefore, the rejections should be reversed.

Further with regard to Claim 6, the Examiner has again failed to consider the limitation of executing the install system from the temporary directory *without rebooting an operating system*. The Examiner does not address the italicized limitation anywhere

in his answer. For this additional reason, the rejection of Claim 6 and its dependent claims should be reversed.

Further with regard to Claim 21, the Examiner has again failed to consider the limitations of loading an install system to a temporary directory *without registering the install system with the operating system* and executing the install system from the temporary directory *without restarting the operating system*. The Examiner does not address the italicized limitations anywhere in his answer. For this additional reason, the rejection of Claim 21 and its dependent claims should be reversed.

Respectfully submitted,



Steven R. Ormiston
Reg. No. 35,974
(208) 433-1991 x204

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 5

OCT 17 2005

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Date of Deposit: Oct. 17, 2005
 Typed or printed name: Tanya E. Paulin
 Signature: [Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Eric Gentry	)	Attorney
Serial No: 09/943,879	)	Docket Number: 10019419-1
Filed: August 31, 2001	)	Group Art Unit: 2124
Title: System And Method For Installing Window Installer Service Without Rebooting	)	Examiner: A. Khatri

APPELLANT'S/APPLICANT'S REPLY TO THE EXAMINER'S ANSWERApplicant Elects To Maintain The Appeal

In response to the Applicant's Opening Brief On Appeal, the Examiner issued a non-final Office Action purporting to withdraw the finality of the prior Action and advancing new grounds for rejection.

Rule 41.39(a) (37 U.S.C. § 41.39(a)) provides that the Examiner may furnish a written answer to the appeal brief and that the Examiner's answer may include new grounds of rejection. If the Examiner's answer contains a rejection designated as a new ground of rejection, then the Applicant may request that prosecution be reopened before the primary examiner by filing a reply under Rule 1.111 or that the appeal be maintained by filing a reply brief under Rule 41.41. 37 U.S.C. § 41.39(b).

The Applicant has, therefore, construed the Examiner's action as an answer designating new grounds for rejection under Rule 41.39(a)(2). Accordingly, pursuant to Rule 41.39(b)(1), Applicants are requesting that the appeal be maintained by filing this reply brief under Rule 41.41.

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 1

Gaither Does Not Teach All Claim Limitations

Claims 1-25 now stand rejected under Section 102 as being anticipated by Gaither (6381615). As noted in Applicant's Opening Brief, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP 2131. And, as this Board has recognized, "it is now well settled that the burden of establishing a *prima facie* case of anticipation resides with the Patent and Trademark Office." *In re Skinner*, 2 USPQ2d 1788, 1788-89 (BPAI 1986; see also *Ex parte Natale*, 11 USPQ 2d 1222, 1226 (BPAI 1989)). The Office has failed to carry this burden as to any of the claims.

Claim 6 recites a method that includes loading an install system to a temporary directory, setting a path for the install system as the temporary directory, and executing the install system from the temporary directory. Claims 1, 11 and 16 are means plus function, computer medium and system claims that recite similar limitations. Claim 21 recites a method that includes loading an install system to a temporary directory without registering the install system with the operating system and executing the install system from the temporary directory without restarting the operating system.

The entirety of the Examiner's analysis in support of the rejection of Claims 1, 6, 11, 16 and 21 is set forth verbatim below.

"*Gaither et al* teaches,

- means for loading the install system to a temporary directory (column 2, lines 10-17, column 7, lines 45-48);

- means for setting a path for the install system as the temporary directory (column 3, lines 29-47); and

- means for executing the install system from the temporary directory (columns 7-8, lines 66-67 and 1-20)." Office Action, page 3.

The Examiner's conclusions based on Gauthier are not correct. Gauthier is directed to virtualizing I/O operations by performing string substitutions upon file paths or other resource identifiers to convert the virtual destination of an I/O operation to a physical destination. Gauthier, Abstract lines 1-5. Gauthier notes that all programs in a Windows operating system typically are allowed access to a common temporary

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 2

directory. Gauthier, column 2, lines 10-17. There is no teaching in Gauthier, however, about loading an install system to the temporary directory, setting a path for the install system as the temporary directory and/or executing the install system from the temporary directory.

Applicant notes, respectfully but with much frustration, that more and more Examiners seem to have gotten in the habit lately of supporting a rejection by the simple expedient of quoting the claim limitations and then citing to passages in a reference. No effort is made to explain how the language in the cited passages might reasonably be deemed to teach the limitations. And so it is in this case. The passages in Gauthier relied on by the Examiner are quoted verbatim below – there is nothing apparent in these passages that teaches or suggests loading an install system to a temporary directory, setting a path for the install system as the temporary directory, and/or executing the install system from the temporary directory.

"There are a number of mechanisms known in the art that can virtualize file system access operations to a limited extent. For example, in the Windows NT.RTM. or Windows.RTM. 98 operating system, a global variable called "Temp" is typically defined that allows all programs to access a common temporary directory. By changing the file path contained in the variable, the location of the temporary directory used by all programs can also be changed" Gauthier, column 2, lines 10-17.

"In a first embodiment of the invention, the file system is partially virtualized and a user can see both the virtual file paths and the physical file paths. In this embodiment, the virtual file path is translated to a physical file path if a translation exists, and the file access operation is processed using the physical file path. If no translation exists, the file path provided by the application or utility is used to process the file access request.

In second and third embodiments of the present invention, the file system is completely virtualized from the point of view of the applications and system utilities. In the second embodiment, a user may start with a physical file system, and virtualize the file system by installing the virtual file system translation driver. When the driver is initially installed, all virtual file paths will be considered to translate to identically named physical file paths by default. In the third embodiment, virtual translations are automatically generated for all file paths when files and directories are

created, and virtual file paths may bear limited, or no resemblance to physical file paths." Gauthier column 3, lines 29-47.

"One of the advantages provided by the present invention is that the process of re-mapping directories can be done on-the-fly without having to reboot the computer. For example, the directory tree of a program can be moved to another location, with the file "vftranslate.ini" updated by the computer user to reflect the new location, and the program can be immediately executed." Gauthier, column 7, lines 45-50.

"For example, consider that a computer user is having trouble with various versions of a DLL file. The acronym "DLL" stands for dynamic link library, and DLL files allow executable routines, generally serving a specific function or set of functions, to be stored separately as files with DLL extensions. One common problem with the Windows.RTM. family of operating systems is that different versions of a DLL may be stored in various directories, and the installation of one program may overwrite a version of a DLL file required by another program, thereby "breaking" the other program. In this example, assume that the user suspects that the file "msvcrt40.dll" (which contains the Microsoft.RTM. Visual C++ v4.0 runtime library) is the problem. Rather than check the versions of all copies of the file "msvcrt40.dll" present on the hard drive (which may entail, for example, renaming each occurrence "msvcrt40.dll" to "msvcrt40.old", and coping the latest version of "msvcrt40.dll" to each directory where the file is located), the user can simply copy the latest version of the file "msvcrt40.dll" to the directory "c:\backslash.dll_library" and add the following entry to the file "vftranslate.ini":." Gauthier, column 7, line 66 through column 8, line 20.

So far as Applicant can tell, there is nothing in these passages relevant to the limitations in any of the independent claims, Claims 1, 6, 11, 16 and 21, except, perhaps, for the generalized statement about program access to a common temporary directory. That statement, of course, is not sufficient by itself to support the rejections. The Examiner has failed to carry his burden of establishing a *prima facie* case of anticipation as to any of the claims and, therefore, the rejections should be reversed.

Further with regard to Claim 6, the Examiner has again failed to consider the limitation of executing the install system from the temporary directory *without rebooting an operating system*. The Examiner does not address the italicized limitation anywhere

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 4

in his answer. For this additional reason, the rejection of Claim 6 and its dependent claims should be reversed.

Further with regard to Claim 21, the Examiner has again failed to consider the limitations of loading an install system to a temporary directory *without registering the install system with the operating system* and executing the install system from the temporary directory *without restarting the operating system*. The Examiner does not address the italicized limitations anywhere in his answer. For this additional reason, the rejection of Claim 21 and its dependent claims should be reversed.

Respectfully submitted,



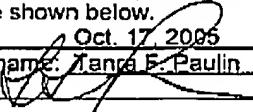
Steven R. Ormiston
Reg. No. 35,974
(208) 433-1991 x204

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 5

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Date of Deposit: Oct. 17, 2005

Typed or printed name: Tanya F. Paulin

Signature: 

RECEIVED
CENTRAL FAX CENTER

OCT 17 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Eric Gentry)	
	)	Attorney
Serial No: 09/943,879	)	Docket Number: 10019419-1
)	
Filed: August 31, 2001	)	Group Art Unit: 2124
)	
Title: System And Method For	)	Examiner: A. Khatri
Installing Window Installer)	
Service Without Rebooting)	

APPELLANT'S/APPLICANT'S REPLY TO THE EXAMINER'S ANSWER

Applicant Elects To Maintain The Appeal

In response to the Applicant's Opening Brief On Appeal, the Examiner issued a non-final Office Action purporting to withdraw the finality of the prior Action and advancing new grounds for rejection.

Rule 41.39(a) (37 U.S.C. § 41.39(a)) provides that the Examiner may furnish a written answer to the appeal brief and that the Examiner's answer may include new grounds of rejection. If the Examiner's answer contains a rejection designated as a new ground of rejection, then the Applicant may request that prosecution be reopened before the primary examiner by filing a reply under Rule 1.111 or that the appeal be maintained by filing a reply brief under Rule 41.41. 37 U.S.C. § 41.39(b).

The Applicant has, therefore, construed the Examiner's action as an answer designating new grounds for rejection under Rule 41.39(a)(2). Accordingly, pursuant to Rule 41.39(b)(1), Applicants are requesting that the appeal be maintained by filing this reply brief under Rule 41.41.

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 1

Gaither Does Not Teach All Claim Limitations

Claims 1-25 now stand rejected under Section 102 as being anticipated by Gaither (6381615). As noted in Applicant's Opening Brief, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP 2131. And, as this Board has recognized, "it is now well settled that the burden of establishing a *prima facie* case of anticipation resides with the Patent and Trademark Office." *In re Skinner*, 2 USPQ2d 1788, 1788-89 (BPAI 1986; see also *Ex parte Natale*, 11 USPQ 2d 1222, 1226 (BPAI 1989)). The Office has failed to carry this burden as to any of the claims.

Claim 6 recites a method that includes loading an install system to a temporary directory, setting a path for the install system as the temporary directory, and executing the install system from the temporary directory. Claims 1, 11 and 16 are means plus function, computer medium and system claims that recite similar limitations. Claim 21 recites a method that includes loading an install system to a temporary directory without registering the install system with the operating system and executing the install system from the temporary directory without restarting the operating system.

The entirety of the Examiner's analysis in support of the rejection of Claims 1, 6, 11, 16 and 21 is set forth verbatim below.

"*Gaither et al* teaches,

- means for loading the install system to a temporary directory (column 2, lines 10-17, column 7, lines 45-48);

- means for setting a path for the install system as the temporary directory (column 3, lines 29-47); and

- means for executing the install system from the temporary directory (columns 7-8, lines 66-67 and 1-20)." Office Action, page 3.

The Examiner's conclusions based on Gauthier are not correct. Gauthier is directed to virtualizing I/O operations by performing string substitutions upon file paths or other resource identifiers to convert the virtual destination of an I/O operation to a physical destination. Gauthier, Abstract lines 1-5. Gauthier notes that all programs in a Windows operating system typically are allowed access to a common temporary

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 2

directory. Gauthier, column 2, lines 10-17. There is no teaching in Gauthier, however, about loading an install system to the temporary directory, setting a path for the install system as the temporary directory and/or executing the install system from the temporary directory.

Applicant notes, respectfully but with much frustration, that more and more Examiners seem to have gotten in the habit lately of supporting a rejection by the simple expedient of quoting the claim limitations and then citing to passages in a reference. No effort is made to explain how the language in the cited passages might reasonably be deemed to teach the limitations. And so it is in this case. The passages in Gauthier relied on by the Examiner are quoted verbatim below – there is nothing apparent in these passages that teaches or suggests loading an install system to a temporary directory, setting a path for the install system as the temporary directory, and/or executing the install system from the temporary directory.

"There are a number of mechanisms known in the art that can virtualize file system access operations to a limited extent. For example, in the Windows NT.RTM. or Windows.RTM. 98 operating system, a global variable called "Temp" is typically defined that allows all programs to access a common temporary directory. By changing the file path contained in the variable, the location of the temporary directory used by all programs can also be changed" Gauthier, column 2, lines 10-17.

"In a first embodiment of the invention, the file system is partially virtualized and a user can see both the virtual file paths and the physical file paths. In this embodiment, the virtual file path is translated to a physical file path if a translation exists, and the file access operation is processed using the physical file path. If no translation exists, the file path provided by the application or utility is used to process the file access request.

In second and third embodiments of the present invention, the file system is completely virtualized from the point of view of the applications and system utilities. In the second embodiment, a user may start with a physical file system, and virtualize the file system by installing the virtual file system translation driver. When the driver is initially installed, all virtual file paths will be considered to translate to identically named physical file paths by default. In the third embodiment, virtual translations are automatically generated for all file paths when files and directories are

created, and virtual file paths may bear limited, or no resemblance to physical file paths." Gauthier column 3, lines 29-47.

"One of the advantages provided by the present invention is that the process of re-mapping directories can be done on-the-fly without having to reboot the computer. For example, the directory tree of a program can be moved to another location, with the file "vftranslate.ini" updated by the computer user to reflect the new location, and the program can be immediately executed." Gauthier, column 7, lines 45-50.

"For example, consider that a computer user is having trouble with various versions of a DLL file. The acronym "DLL" stands for dynamic link library, and DLL files allow executable routines, generally serving a specific function or set of functions, to be stored separately as files with DLL extensions. One common problem with the Windows.RTM. family of operating systems is that different versions of a DLL may be stored in various directories, and the installation of one program may overwrite a version of a DLL file required by another program, thereby "breaking" the other program. In this example, assume that the user suspects that the file "msvcrt40.dll" (which contains the Microsoft.RTM. Visual C++ v4.0 runtime library) is the problem. Rather than check the versions of all copies of the file "msvcrt40.dll" present on the hard drive (which may entail, for example, renaming each occurrence "msvcrt40.dll" to "msvcrt40.old", and coping the latest version of "msvcrt40.dll" to each directory where the file is located), the user can simply copy the latest version of the file "msvcrt40.dll" to the directory "c:\backslash.dll_library" and add the following entry to the file "vftranslate.ini":." Gauthier, column 7, line 66 through column 8, line 20.

So far as Applicant can tell, there is nothing in these passages relevant to the limitations in any of the independent claims, Claims 1, 6, 11, 16 and 21, except, perhaps, for the generalized statement about program access to a common temporary directory. That statement, of course, is not sufficient by itself to support the rejections. The Examiner has failed to carry his burden of establishing a *prima facie* case of anticipation as to any of the claims and, therefore, the rejections should be reversed.

Further with regard to Claim 6, the Examiner has again failed to consider the limitation of executing the install system from the temporary directory *without rebooting an operating system*. The Examiner does not address the italicized limitation anywhere

in his answer. For this additional reason, the rejection of Claim 6 and its dependent claims should be reversed.

Further with regard to Claim 21, the Examiner has again failed to consider the limitations of loading an install system to a temporary directory *without registering the install system with the operating system* and executing the install system from the temporary directory *without restarting the operating system*. The Examiner does not address the italicized limitations anywhere in his answer. For this additional reason, the rejection of Claim 21 and its dependent claims should be reversed.

Respectfully submitted,



Steven R. Ormiston
Reg. No. 35,974
(208) 433-1991 x204

09/943,879
Docket No. 10019419-1
Appellant's Reply Brief
Page 5